UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/1996/SR.26
11 April 1996

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 26th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 4 April 1996, at 10 a.m.

Chairman:	Mr. VERGNE SABOIA	(Brazil)
later:	Mr. VASSYLENKO (Vice-Chairman)	(Ukraine)

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GE.96-11964 (E)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued)

The meeting was called to order at 10.15 a.m.

STATEMENT BY THE MINISTER FOR PUBLIC SERVICE OF PAPUA NEW GUINEA

1. Mr. GENIA (Papua New Guinea) said that the United Nations Decade for Human Rights Education should be used to devise practical ways of addressing the blatant and institutionalized forms of human rights violations throughout the world. His delegation therefore endorsed and supported the goals and activities contained in the Plan of Action for the Decade.

2. As part of its commitment to the Commission's efforts to promote respect for the rights and freedoms enshrined in the Charter of the United Nations, his Government had decided to establish the National Human Rights Commission of Papua New Guinea. The Commission, to be composed of three full-time members, including a woman, would have a qualified judge or a former judge of the Supreme Court as its president. It would also have three advisory commissioners. It would be responsible, inter alia, for protecting and promoting awareness and respect for human rights, investigating incidents, complaints or allegations of human rights breaches, monitoring compliance with existing international human rights instruments and advising the Government on additional instruments, and promoting human rights with regional and international bodies. While it would have no power to prosecute, the Commission could intervene in court proceedings when human rights issues arose, investigate in areas of declared public emergency, review existing and proposed legislation for consistency with human rights and recommend legislative and other measures to protect human rights.

3. His Government would consult and solicit assistance from bilateral and multilateral donors, including the Centre for Human Rights, to assist in the initial establishment and operation of the National Human Rights Commission which would be fully funded in 1997.

4. Concerning the serious allegations of human rights violations in the country's Bougainville province, his Government had, as part of its efforts to bring about peace and normalcy, and in pursuance of the Mirigini Charter and Waigani Communiqué, been aware of the need for Bougainvillian leaders to discuss amongst themselves the pertinent issues relating to the crisis. His Government believed that the only way forward for the organizations known as the Bougainville Revolutionary Army and Bougainville Interim Government was to join the Bougainville Transitional Government and to address all issues, including the future political status of Bougainville, within the framework of the Constitution of Papua New Guinea.

5. In that connection, the fact that the two seats allocated to BRA/BIG in the Bougainville Transitional Government still remained unfilled raised serious concerns as to the genuineness of their commitment to a peaceful and lasting solution. It was not entirely surprising, therefore that, immediately after the second Cairns talks, BRA had resumed its attacks on strategic Government locations and on innocent people, causing a derailment of the carefully negotiated three-year-old peace process.

6. As a result, his Government had been compelled to lift the ceasefire and mobilize its security forces. However, that did not mean that an all-out war was being conducted in Bougainville. The Government wished only to restore the rule of law, public order and security. It would continue to seek a peaceful solution and would pursue its efforts to restore, the essential services that had been destroyed by BRA whose activities were preventing the people from enjoying their rights to education, health and justice.

7. His Government's efforts to involve third parties in the negotiations for peace did not in any way detract from the reality that the crisis was an internal affair of a sovereign State under international law. Many Member States were not only very sensitive to the possible implications that breaking up Papua New Guinea might have for their own national unity and territorial integrity but were also strongly opposed to a proliferation of small States.

8. While the principle of self-determination could also be regarded as a human rights issue, it could easily be misconstrued. The United Nations, especially the Commission on Human Rights, espoused the principle of self-determination as not being a right but as a human rights concern applying to colonial countries and peoples. Therefore, the representatives of the Secretary-General should be objective in their discussions and convey the United Nations position in relation to self-determination in compliance with General Assembly resolution 1514.

9. As for the issue of ethnic distinction that was continuously asserted by BRA/BIG and posited by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities in its resolution 1992/19, the international community would have a far greater problem to deal with if all the inhabitants of Papua New Guinea - a complex and ethnically diverse country with 850 languages and tribes - claimed ethnic distinction and brought their cases for self-determination to the Sub-Commission. He thus appealed to all Member States to refrain from supporting independence for Bougainville and thought that no Commission resolution on Bougainville was needed.

10. His country, which had acceded to the Convention on the Elimination of Racial Discrimination, the Convention on the Elimination of Discrimination Against Women and the Convention on the Rights of the Child, had initiated the process to ensure that its reporting obligations to the various treaty bodies would be fulfilled. His Government was also committed to ensuring that those instruments were widely publicized.

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF TOGO

11. Mr. DORKENOO (Togo) said that the promotion, protection and defence of human rights required a genuine change of mentality among all citizens everywhere. The establishment of the post of High Commissioner for Human Rights underscored the international community's determination to implement a genuine human rights policy throughout the world. The peoples of Africa, for their part, trusted that the High Commissioner would play a key role in the positive development of the continent's human rights situation. In that regard, the admirable work carried out by him and by the Centre for Human Rights deserved every support.

12. As article 50 of its Constitution demonstrated, Togo had clearly opted for the establishment of a genuine democracy and respect for human rights, since the democratic system was the only one that allowed the people to express its will. However, democracy was a long-term venture which no country in the world had succeeded in practising without being subjected to criticism at home and abroad. During Togo's period of democratic transition, great efforts had been made to ensure the triumph of dialogue, the prerequisite for a genuine culture of democracy. In that connection, with a view to achieving genuine national reconciliation, his Government had signed an agreement with the United Nations High Commissioner for Refugees for the voluntary repatriation of Togolese refugees from Benin and Ghana.

13. His Government welcomed the United Nations Decade for Human Rights Education because of its firm belief that such education was essential for the consolidation of nascent democracies and because the Decade would mobilize the international community against the ignorance and intolerance which were the most serious obstacles to the full realization of fundamental human rights. His own Ministry, which was chiefly concerned to educate the Togolese people in the essential values of human rights, organized missions and seminars throughout the country and in all the social strata.

14. To consolidate democracy, his Government had been gradually installing the human rights protection mechanisms provided for by the Constitution. A number of bills, including those concerning the organization and functioning of the National Commission on Human Rights, the status of magistrates and the supreme authority for audiovisual and communications affairs, had been approved by the Cabinet and submitted to the National Assembly for adoption. However, Togo badly needed assistance in its efforts to build a State genuinely subject to the rule of law. The assistance provided by the Centre for Human Rights was thus invaluable, not least because it demonstrated the Centre's recognition of his Government's manifest commitment to human rights.

15. His Government was determined to press ahead and to spare no efforts to overcome the difficulties inherent in the construction of a genuinely democratic State. However, its chances would depend on how successful it was in blending economic, cultural and political matters in order to achieve its goal of improving the well-being of all its people. It was making every effort to establish a climate conducive to respect for fundamental freedoms. In that regard, the Amnesty Law passed by the National Assembly on 14 December 1994 demonstrated the authorities' commitment to establishing civil peace based on pardon and tolerance.

16. Africa in general and Togo in particular had to meet the challenge of building democracy on the foundations of respect for human rights while ensuring economic, social and cultural development. Poverty and illiteracy were the seed-beds of human rights violations and, if strategies were not found to promote sustainable human development and to improve the standard of living, the economic difficulties which continued to plague the continent might degenerate into social conflicts.

17. The World Conference on Human Rights had stressed the need for States and international organizations, in cooperation with NGOs, to establish at the national, regional and international levels conditions favourable to the full

and effective enjoyment of human rights. While aware of the difficulties that a false approach to human rights could cause, his Government was confident that genuine solidarity on the part of the international community would bolster Togolese efforts. In the circumstances, his Government requested that, in the spirit of resolution 1995/52, the Commission should discontinue its consideration of the human rights situation in Togo.

18. Mr. Vassylenko (Ukraine), Vice-Chairman, took the Chair.

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(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 8) (continued) (E/CN.4/1996/5-E/CN.4/Sub.2/1995/36, E/CN.4/1996/28 and Corr.1, 29 and Add.1-3, 30, 31 and Add.1, 32 and Add.1, 33 and Add.1, 34, 35 and Add.1 and Corr.1 and Add.2, 36, 37, 38 and Corr.1, 39 and Add.1 and Add.2, 40 and Add.1, 41, 121-124, 133 and 143; E/CN.4/1996/NGO/10, 24, 25, 26, 36, 46, 55 and 61; E/CN.4/Sub.2/1995/20 and Corr.1 and Add.1 and 30 and Add.1; E/CN.4/1995/100; A/50/512)

19. Miss AROCHA (Venezuela) said that her Government wished to clarify the information in paragraph 188 of the report of the Special Rapporteur on the question of torture (E/CN.4/1996/35), which might give the false impression that Venezuela had tried to avoid a visit from him. That visit had been under preparation for over a year and it had been arranged that the Special Rapporteur would go to Venezuela, probably in May 1996.

20. The Government was prepared to facilitate the Special Rapporteur's work, as demonstrated by the establishment of an inter-institutional committee that would be responsible for working with him. His visit would provide an opportunity for investigation, dialogue and cooperation since, as the Government freely admitted, the problem of torture, together with that of the administration of justice and the prison system, was still a matter of serious concern.

21. Venezuela's series of democratic Governments since 1958 had made great progress towards the realization of human rights, and the freedom of speech exercised by citizens through a wide range of media had likewise played a constructive role.

22. Mr. KRYLOV (Russian Federation) said his Government was convinced that an independent and impartial judicial system was the foundation for democracy and the rule of law. The Constitutional Court actively defended the rights of citizens and, on 31 October 1995, the Supreme Court had ruled that

international treaties took precedence over domestic law. Arbitral institutions required by the transition to a market economy had been established and were currently operating. Legislation on criminal proceedings was being revamped to accommodate the presumption of innocence and trial by jury was becoming more widespread.

23. A number of challenges still remained, however, including the adoption of modern and humane approaches to incarceration. The Russian Federation's entry into the Council of Europe and signature of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment required it to step up its efforts to resolve the critical problem of the overcrowding of pre-trial detention facilities. That was a problem that could not be resolved overnight, especially in view of the paucity of the resources available. Moreover, the rise in violent crime predisposed the public to question why resources should be channelled to the renovation of prisons rather than the building and renovation of schools, hospitals and child-care facilities and assistance to vulnerable groups.

24. The Russian Federation's ongoing dialogue with the Special Rapporteur on the question of torture was outlined in his report (E/CN.4/1996/35, paras. 140-149). The Working Group to elaborate an optional protocol to the Convention against Torture should intensify its efforts to elaborate a preventive mechanism for ensuring the observance of human rights in places of detention.

25. In the context of the current agenda item, however, the Commission must not overlook the growing practice of hostage-taking by terrorist groups and illegal armed bands. That practice was a flagrant violation of human rights and should be unanimously and decisively condemned.

26. Mr. BERGUÑO (Chile) said that, since Chile's return to the democratic fold, his Government had undertaken a large-scale effort to shed light on the serious and systematic violations of human rights under the dictatorship and to provide the victims or their families with appropriate reparation. Earnest efforts were likewise being made to establish machinery for the prevention and punishment of future human rights violations. Substantial progress in accession to and ratification of international human rights instruments was accompanied by an ambitious reform of domestic legislation and involvement in international monitoring efforts, including the thematic mechanisms.

27. One of his country's major concerns in the past had been the practice of torture. There had been gradual improvements in domestic legislation aimed at protecting the rights of detainees. Chile had withdrawn its reservations to the Inter-American Convention to Prevent and Punish Torture and to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It had recently invited the Special Rapporteur on the question of torture to visit the country, a visit that was reported in a document before the Commission (E/CN.4/1996/35/Add.2).

28. It was noteworthy that the Special Rapporteur drew a strong distinction between the situation prevailing in Chile under the military regime and the real commitment of the successive civilian Governments to respect for human rights, particularly the eradication of torture. Legislative and

administrative measures had been adopted to prevent torture or other cruel, inhuman or degrading treatment by members of the police force. All accusations were scrupulously investigated. The courts of law were responsible for determining whether an offence had been committed and for sentencing those responsible.

29. Adapting Chile's criminal proceedings to the requirements set out in international human rights instruments was a priority task for the Government. The Penal Code had been amended by a legislative act in 1991 with a view to ensuring protection for detainees, guaranteeing them the right to confer with a lawyer during pre-trial detention and limiting the duration of such detention. In January 1996, an amendment to the Penal Code by which torture would be defined as a crime had been submitted to Parliament.

30. His Government had taken careful note of the report and would investigate rigorously any situations that might constitute acts of torture or inhuman or degrading treatment. While not necessarily agreeing with all the views of the Special Rapporteur, it appreciated his dedication to duty and assured him of its unvarying support and willingness to cooperate. In view of the importance of his work, however, the Special Rapporteur must make every effort to verify the information he received, something that did not appear to have been done in the case of the statement in paragraph 74 of the report.

31. Mr. CHEN Weidian (China) said that torture existed in almost every country and could be eradicated only by the adoption and implementation of legislative, judicial and administrative measures by individual countries, in accordance with their specific conditions.

32. Chinese legislation provided for the prohibition of all forms of torture and strict punishment for criminal acts of that nature. Explicit provisions stated that no one was allowed to subject others to torture or mistreatment and that victims of torture had the right to claim compensation. China's signing and ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment gave further expression to its determination to join other countries in efforts to eliminate all forms of torture.

33. The Chinese Government and judicial authorities attached great importance to the investigation and handling of cases involving torture. Every complaint was dealt with promptly and those found guilty were punished according to the law. The Code of Criminal Procedure had recently been amended. According to the new provisions, no one could be pronounced guilty without a court judgement, for which sufficient evidence must be presented and the role of the public security, procuratorial and judicial organs had been more clearly defined.

34. The practice of summoning people for questioning had been abolished and the duration of pre-trial detention had been strictly defined. The period of time that lawyers could be involved in criminal proceedings had been greatly expanded in order to protect more effectively the legal rights of the accused. Other provisions had also been instituted to guarantee the procedural rights of detainees and to strengthen supervision at the various stages of criminal proceedings.

35. His delegation welcomed the progress made by the Working Group to elaborate an optional protocol to the Convention against Torture, but believed that international human rights instruments should reflect the principle of respect for State sovereignty, which was a basic standard of international law. They should be imbued with the principles of non-selectivity, impartiality, objectivity and accountability.

36. Mr. OGORTSOV (Belarus) said that the extent to which a State granted freedom of opinion and expression was generally indicative of the extent of its realization of all the other rights set forth in the International Bill of Human Rights. Belarus was making every effort to guarantee freedom of opinion and expression. It was already enshrined in the country's Constitution, subject only to the limitations allowed by article 19 of the International Covenant on Civil and Political Rights. The Constitution also prohibited any monopolization of the mass media by the State, public bodies or individuals. Of the 781 registered periodicals in Belarus on 1 May 1995, only 189 had been founded by State organs.

37. As part of the process of preparing its entry into the Council of Europe, Belarus had been adapting its national legislation to the provisions of the European Convention on Human Rights. The Press and Other Mass Media Act, which had entered into force in February 1995, had been sent to the Council of Europe for comment. The observations and recommendations of the Council of Europe had been studied by all the concerned ministries and other State organs and would be taken into account in future legislation.

38. His delegation hoped that cooperation between the Special Rapporteur on freedom of opinion and expression and the other special rapporteurs and procedures within the human rights programme would continue to improve and that the Special Rapporteur on freedom of opinion and expression would be provided with all necessary assistance within the framework of existing resources. The Government of Belarus was pleased to offer him its full cooperation.

39. Mr. KREID (Austria), having indicated that his statement was complementary to that already made on behalf of the European Union, said that, in both industrialized and developing countries, juveniles were coming increasingly into conflict with the law and that, although there was no lack of international standards, law enforcement systems were often ill-equipped to deal with them. His Government welcomed the Plan of Action for promoting the rights of the child recently presented by the High Commissioner for Human Rights. Following the expert meeting held at Vienna in 1994, it was currently working on an international project for assessing the strategic needs of juveniles in conflict with the law.

40. It was important to enhance public awareness of the reasons why juveniles were so frequently coming into conflict with the law, how States dealt with that situation, and what alternative solutions might be found. In Austria, a promising alternative to criminalizing juveniles and to overcrowding juvenile detention centres had been developed. Rather than being convicted, juvenile

law-breakers were confronted with their victims for the purpose of encouraging them to make amends. Although such confrontations were often painful for both sides, they had a positive impact on juveniles, who became more conscious of the consequences of their misdeeds.

41. At the current session, his delegation would again submit a draft resolution on human rights in the administration of justice.

42. Effective guarantees against arbitrary detention were a major precondition for dealing with the root causes of human rights violations, which often occurred during such detention. His delegation thus welcomed the excellent work done in that field by the Working Group on Arbitrary Detention. Many Governments had reacted positively to cases brought to their attention by the Group, and his delegation was confident that the further steps which the Group had decided upon with regard to its methods of work would improve such cooperation. His delegation appealed to all States to allow visits by members of the Group for the purpose of corroborating evidence and found it alarming that some planned visits had had to be cancelled because of financial constraints. The adoption of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment would complement the activities of the Group by instituting a preventive system of periodic visits by independent experts to places of detention.

43. Unfortunately, no significant progress had been made with regard to disappearances. Thanks were due to the Working Group on Enforced or Involuntary Disappearances for its untiring efforts to shed light on the many thousands of cases brought to its attention. Its assistance frequently remained the only hope for the families concerned. His delegation welcomed the Group's efforts to develop its own database and urged all Governments to respond to its inquiries.

44. The Expert on the special process dealing with missing persons in the former Yugoslavia had informed the Commission that some 30,000 persons were estimated to be missing in the former Yugoslavia. That was a serious challenge to the Commission. Many of the missing persons were thought to be buried in more than 300 suspected mass graves in Bosnia and Herzegovina and in Croatia. The Commission must therefore agree on how to proceed with the necessary excavations if the Governments concerned were unable or unwilling to carry them out. Although the Expert had received, for the first time, support from local Serb authorities in Eastern Slavonia and from high-level representatives of the Republika Srpska, his endeavours had not yet resulted in a fruitful dialogue with the Federal Republic of Yugoslavia. Austria had so far provided the names of nine experts in response to the Commission's request to identify individual experts who might be asked to join the forensic teams or to provide assistance.

45. Close cooperation among the Commission's special rapporteurs and working groups was important in order to enhance their effectiveness. However, there was a striking disproportion between the tasks and responsibilities assigned to them and the staff and financial resources placed at their disposal. Adequate funding was required.

46. Mr. ZAHRAN (Egypt) said that the very considerable development of the United Nations human rights monitoring system had given rise to some confusion in that the obligation to submit reports to the treaty bodies was imposing a strain on the reporting States. Egypt, for instance, was a party to 18 different human rights instruments and had undertaken to submit periodic reports to six different committees. Together with a number of other States, it had called for a clearly defined framework for the activities of United Nations human rights bodies. In particular, the Commission should consider the proposal that States parties might submit a single comprehensive report and that the treaty bodies should hold joint meetings to consider such combined reports. A reform of that kind would also save resources, an important consideration in view of the fact that special rapporteurs were being prevented from performing their duties by lack of funds.

47. Special rapporteurs and working groups should submit specific recommendations concerning the advisory services programme, and the reports which they submitted to the Commission should contain proposals for appropriate solutions in addition to criticism of the human rights situation in individual countries. Every effort must also be made to prevent the financial crisis facing the United Nations from harming the advisory services programme.

48. His Government had endeavoured to cooperate with all the special rapporteurs and experts who had approached it for information. However, the time-limits for the submission of information should be indicative rather than mandatory. Moreover, some of the information which his Government had sent in reply to questions put by special rapporteurs had not been presented by them in their reports. That had happened, for instance, in the case of the section on Egypt in the report of the Special Rapporteur on freedom of opinion and expression (E/CN.4/1996/39), which should be corrected accordingly. In addition, in the case of the section on Egypt in the report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/1996/37), the Special Rapporteur, had reflected the views of an NGO and had failed to take account of the comments submitted by the Government.

49. Ms. TIMBERLAKE (Joint United Nations Programme on HIV/AIDS (UNAIDS)) drew the Commission's attention to the high prevalence of HIV in prisons, where the activities that spread HIV, notably sex and drug use, were usually considered to be criminal and were responded to by disciplinary rather than health measures. Often there were not enough resources to provide basic health care in prisons, much less HIV/AIDS programmes. Yet the situation was an urgent one, involving the rights to health, to security of person, to equality before the law, and to freedom from inhuman and degrading treatment.

50. Ignorance had resulted both in ineffective responses and in widespread discrimination against prisoners with HIV/AIDS, who were subjected to segregation, isolation, denial of privileges and denial of health care. They might also be subjected to violence or ill-treatment at the hands of other prisoners or prison staff. Women prisoners might become pregnant in prison as a result of rape or coerced sex and, if found to be HIV positive, were forced into abortions or sterilization.

51. Neither prisoners nor prison staff were provided with information about how to avoid becoming infected or had access to the means of prevention available outside, including condoms, bleach for disinfecting needles, and needle exchange programmes. Those were difficult issues, since sexual activities in prison were often illegal and, by providing condoms, prison authorities feared that they were condoning them. However, since such activities did occur, the question arose whether there was not a duty to reduce the harm that might result from it and whether prisoners should have the ability to protect themselves from such harm. Similar considerations applied to drug use in prison.

52. Prisoners were captive audiences for prevention and care programmes, but there also had to be a political will. UNAIDS called on Governments to address the needs of prisoners in a non-discriminatory and comprehensive way by enabling them to benefit from HIV prevention information and education, care and support, and confidentiality at the same level as was provided in the community outside, policies being based on the real risk factors actually occurring in prisons. The special needs of women, juveniles and foreign prisoners should also be addressed. UNAIDS urged Governments to use the WHO guidelines on HIV/AIDS and prisons in formulating their HIV prison policy and stood ready to assist them in that process.

53. Mr. WILLE (Observer for Norway) said that the widespread violations of the right of freedom of opinion and expression were particularly regrettable in that it was closely linked to other rights and freedoms such as the rule of law and was vital to a democratic society. His Government thus shared the Special Rapporteur's concern regarding the use of violence against persons seeking to exercise the right of freedom of opinion and expression. In particular, it urged the Government of Iran to take an unequivocal stand against the fatwa against the British author Salman Rushdie and all those associated with his work.

54. Torture was a matter of the utmost importance to the Commission. Governments willingly endorsed campaigns against it at the international level but often practised or condoned it at the national level. Torture was especially reprehensible when it was practised systematically to intimidate, punish or obtain confessions. International pressure should therefore be exerted upon Governments which continued to practise or condone torture of that kind. In the case of more random acts of torture, the State concerned must bring the perpetrators to justice and see to it that the victims were promptly compensated.

55. The fact-finding and monitoring mechanisms for protecting freedom of opinion and expression and the physical and mental integrity of the individual had undergone significant developments. His delegation strongly urged that such work should be given priority within the Centre for Human Rights and sufficient resources allocated to it.

56. Mr. DENGO (Observer for Costa Rica) said that a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had been proposed by his delegation in 1980. The Working Group established by the Commission to elaborate the draft optional protocol had completed its first reading. The draft protocol called for the

establishment of a mechanism to evaluate conditions and practices in places of detention and to make appropriate recommendations. The system would be based on the principles of cooperation, confidentiality, independence, impartiality and universality. Individual cases would not be considered and individual States parties would not be singled out. The mandate of the Working Group should be extended so that it could complete its second reading of the text and submit a final version to the Commission.

57. His delegation endorsed the proposal to set up a voluntary fund to finance technical cooperation in the framework of the proposed optional protocol.

58. Mr. NASSERI (Observer for the Islamic Republic of Iran) said that the noble desire to promote religious tolerance had gradually and imperceptibly given way to an intolerance of religion. Contrary to the original objectives of the forefathers of humanism and pluralism, a counter-religious and counter-moral culture was on the rise: concepts such as morality and spirituality were perceived and portrayed as bizarre and unacceptable. From a time when everything was sacred, the pendulum had swung to the other extreme where nothing was sacred. It was time to find a balance between the two.

59. If the central purpose of the human rights movement was to preserve all beliefs and traditions, then it should provide a normative framework within which diversity could co-exist and different ideas flourish. The religious tradition deserved its due share of respect.

60. In addition to the general counter-religious trend, Islam was the target of additional hostility, having become the new enemy of the West, since the fall of the Soviet empire. Muslims who upheld the tenets of their religion were depicted as fundamentalists and that label alone deprived them of their basic human rights, including freedom of thought and expression. Islam and Muslims were demonized in the Western press. At the same time, anti-Islamic sentiment was endorsed and even praised. It was clear, therefore, that the Western discourse on human rights was influenced by strategic considerations and that the crusade for universal truths ended where political interests began.

61. Mr. MATIN-DAFTARY (International Falcon Movement) said that, since 1979, the Islamic Republic of Iran had been making a continued assault on the human dignity, rights and freedoms of its citizens. Scores of political detainees were being held for long periods in pre-trial detention, the length of which was not taken into account when determining the length of the sentence. Torture was widespread.

62. The 1991 laws of Islamic punishment provided for a range of cruel, inhuman and degrading punishments such as stoning, amputation of limbs, crucifixion and various forms of retaliation. Crimes punishable by death went way beyond those generally recognized as the most serious. Testimony by women was regarded as invalid or as less important than that by men. Non-Muslims did not enjoy full protection of the law. Criminal responsibility began at an extremely early age.

63. Under more recent legislation, authorities were permitted to open fire on peaceful demonstrations. The law relating to the establishment of public and revolutionary courts reaffirmed the position of the Islamic revolutionary tribunals as instruments of judicial cruelty and persecution for the punishment of dissidents. Under that same law, religious judges served the triple function of prosecution, defence and adjudication.

64. A recently revised version of the law of penitence provided for capital punishment, amputation and crucifixion for those who were "warring against God". Courts often ignored the principle of nulla pena sine lege.

65. The 1991 law concerning reform of the bar associations continued to curtail the independent functioning of the bar and permitted purging of non-conformists, adherents of the Baha'i faith and other dissidents.

66. The Commission on Human Rights must play a key role in monitoring the human rights situation in Iran. In particular, it should urge the Iranian Government to extradite the perpetrators of acts of terrorism, as requested by a number of States.

67. Ms. BHUGTIAR (Liberation) said that Asian countries continued to figure prominently in reports of detention and torture. The people of the Chittagong Hill Tracts in Bangladesh were victims of the Government's enforced resettlement policies. Resisters were detained incommunicado and subjected to torture. Members of the Mohajer community in southern Pakistan had been subjected to torture and detention. Kashmir was the scene of torture, arbitrary detention and harassment of human rights activists.

68. In many Asian countries, there was a sense of arrogant impunity, backed by barely credible explanations. For example, the Indian delegation had for years been implausibly asserting that arbitrary detentions and acts of torture were the work of a few rogue police officers. According to United Kingdom sources, there was a consistent pattern of torture inflicted on people from detention centres and districts of Punjab, also casting doubt on the "rogue officer" hypothesis. Human rights lawyers reported that the relatives of detainees were reluctant to seek judicial remedies for fear of police reprisals.

69. In Turkey, the Kurdish population continued to suffer degrading treatment and incommunicado detention.

70. According to United Nations documents, torture and ill-treatment of individuals arrested for political reasons in Tibet was particularly pervasive.

71. Since it was not easy for the average victim of arbitrary detention or torture to find the courage to bring cases to the attention of the United Nations, it was probable that 90 per cent of the cases of detention and torture in Asian countries were never reported.

72. In the United Kingdom, a minister was legally entitled to order the detention and deportation of an individual without formal charges, without the presentation of evidence before an independent body and without trial in a

court of law. She urged the Commission to investigate the abuse of detention powers by the Government of the United Kingdom, in two cases which she cited and several other unreported cases. Only 15 per cent of those detained were charged.

73. Mrs. SHAWL (All Pakistan Women's Association) said that, as a resident of Indian-occupied Kashmir, she had personally witnessed the arrest and murder of her brother and a friend by Indian forces. She could only hope that her personal pain would be transformed into the collective pain of the international community and that action would be taken to ensure respect for the basic human rights of the people of Jammu and Kashmir.

74. Human rights abuses committed by the Indian occupation forces in Jammu and Kashmir, including gang rape and murder, had continued and were on the rise. The Indian war machine had left Kashmir's economy in ruins, brought commerce and industry to a halt and reduced the people to untold misery. Kashmiri women, having no alternative, had joined the mass struggle for freedom.

75. Ms. BARRIENTOS (International Federation of Action of Christians for the Abolition of Torture) said that the increase in and institutionalization of the practice of torture was the result of a number of factors. Four among them were noteworthy. First, abuse of states of emergency had given rise to massive and almost institutionalized torture. Secondly, the existence of "faceless" judges and military tribunals ensured impunity. In that regard, she endorsed the request of the Special Rapporteur on the independence of judges and lawyers to visit Peru and Colombia to investigate "faceless" tribunals and hoped that the Commission would use its good offices to obtain permission from the Governments concerned. Thirdly, the absence of explicit reference to the crime of torture in the penal codes of many States, in violation of United Nations standards, contributed to the widespread use of torture. Fourthly, the practice of torture was encouraged by legislation which granted impunity to those committing serious violations of human rights. In particular, the impunity legislation in Peru constituted a dangerous precedent.

76. Ms. BARBER (Women's International League for Peace and Freedom) said that the Working Group on Enforced and Involuntary Disappearances had visited Sri Lanka in 1991 and 1992. In its reports on those visits, the Group had made a number of specific recommendations with regard to the need to bring the Emergency Regulations into line with accepted international standards and to take disciplinary action against officials involved in cases of disappearances. The Government of Sri Lanka had yet to implement those recommendations.

77. In its latest report (E/CN.4/1996/38 and Corr.1), the Group had registered 36 cases of disappearances in Sri Lanka in 1995. Structures conducive to disappearances were clearly still in place there and it was feared that persons who disappeared had actually been killed. The Government of Sri Lanka certainly faced various constraints, but such circumstances could not be used to justify the continuing human rights abuses, abductions and disappearances.

The meeting rose at 1.05 p.m.